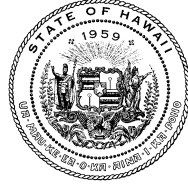


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June 9, 2023

DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2023-02

RE: Act 62, Session Laws of Hawaii 2023, Relating to Health;
Tobacco Products and Electronic Smoking Devices

On June 6, 2023, S.B. 975, S.D. 2, H.D. 3, C.D. 1, was approved by Governor Josh Green, M.D. and became Act 62, Session Laws of Hawaii 2023 (Act 62). Act 62 amends and updates the statutes relating to definitions and taxation of tobacco products with an effective date of **July 1, 2023**.

This Tax Announcement provides guidance regarding tobacco licensing and permitting requirements relating to Act 62 for both renewals and new applicants.

Definition Additions and Amendments

Act 62 adds new definitions to section 245-1, Hawaii Revised Statutes (HRS), for the terms "E-liquid" and "Electronic Smoking Device." The definition of "Tobacco Products" has been amended to include "Electronic Smoking Devices" and "E-liquid."

Excise Tax Amendments

In conformity with the new and amended definitions within section 245-1, HRS, section 245-3, HRS, is amended to include the imposition of excise tax upon electronic smoking devices and e-liquids beginning on **January 1, 2024**.

License Fee Change

Section 245-2, HRS, makes it unlawful for a person to engage in the business of a wholesaler or dealer of cigarettes or tobacco products in the State without having first received a license issued by the Department of Taxation. Licenses are valid from July 1 through June 30 of the following year. Licenses must therefore be renewed annually by July 1 for the twelve months ending the succeeding June 30.

Act 62 amends the licensing fee associated with wholesaling or dealing in cigarettes or tobacco products from the current rate of \$2.50 to a rate of **\$250** annually. In conformity with the statute, all parties engaged in the wholesale or dealing of cigarettes or tobacco products, which now includes electronic smoking devices and e-liquids, must be licensed with the

Department of Taxation. Wholesalers and dealers with an existing license must renew their license prior to the June 30 expiration date in order to continue legally operating. Wholesalers and dealers that are not currently required to be licensed (including those that wholesale or deal exclusively in electronic smoking devices or e-liquids) must obtain a license from the Department of Taxation by July 1, 2023. Application for new licenses, as well as renewal of existing licenses, can be completed online at <https://hitax.hawaii.gov>. To apply for a new license, select Register New Business License on the homepage and complete the BB-1 Business Application.

Permit Fee and Designation Changes

Section 245-2.5, HRS, requires that every retailer engaged in the retail sale of cigarettes and other tobacco products, upon which cigarette and tobacco taxes are required to be paid, shall obtain a retail tobacco permit. Thus, with the term “Tobacco Products” being amended to include electronic smoking devices and e-liquids, and with the imposition of the new excise tax upon electronic smoking devices and e-liquids beginning on January 1, 2024, all retailers that exclusively sell such products must have a retail tobacco permit by January 1, 2024 to be able to continue lawfully selling such products.

The retail tobacco permits are valid for the term of one year, from December 1 through November 30 of the following year, and retailers must obtain a permit for each place of business owned, controlled, or operated by the retailer. Act 62 includes a **new requirement** that all retailers applying for or renewing a permit must designate whether each place of business sells electronic smoking devices, e-liquids, or both. In addition to this new requirement, Act 62 increases the permit fee from the current amount of \$20 to **\$50** annually.

The Department will send out renewal notices beginning in October to retailers with existing permits to remind them to renew their permits by December 1, 2023. Existing permit holders will renew their permit in the same manner as in years prior with the only differences being the new designation requirement (specifying whether each place of business sells electronic smoking devices, e-liquids, or both) and the new higher annual fee charged for the permit.

Retailers that sell only electronic smoking devices, e-liquids, or both, are not required to have a retail tobacco permit until January 1, 2024 when the new excise tax on such products goes into effect.

Please be advised that applications for new permits and renewals may be submitted ahead of the required time because the applicant can specify the time-period for which they are seeking a permit. For example, a retailer can apply on October 1, 2023 and specify that the application is for the permit period running from December 1, 2023 through November 30, 2024. Applications and renewals for Retail Tobacco Permits will be available online beginning October 1, 2023. Retailers are encouraged to apply early and not wait until the last minute.

Application or renewal of permits to retail cigarettes or other tobacco products can be completed online at <https://hitax.hawaii.gov>.

/s/

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